

REMARKS

In the Office Action mailed from the United States Patent and Trademark Office on May 24, 2006, the Examiner rejected claims 1 and 3-34.

Rejection under 35 U.S.C. § 112

In the Office Action, the Examiner rejected claims 22-25 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Accordingly, Applicants have canceled these claims and respectfully request that the §112 rejection be removed.

Rejections under 35 U.S.C. § 102

A. Sheppard '093

The Examiner rejected claims 1, 3-5, 9, 11-21, 26 and 28-34 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,645,093 to Sheppard (Sheppard '093). In response, Applicants provide the following remarks. The standard for a Section 102 rejection is set forth in M.P.E.P 706.02, which provides:

[F]or anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present.

Applicants respectfully submit that the cited reference does not teach every aspect of the previously presented claims. The Applicants' invention relates to an apparatus for manually carrying a load. Specifically, independent claims 1, 13, 14, and 19 recite the limitation "a central

rib to distribute a weight corresponding to said load over the back of a user,” and independent claim 32, a similarly worded method claim, reads “positioning said substantially rigid shoulder frame assembly over said shoulders and said back of said user such that said weight of said load is substantially evenly distributed over said user.” These independent claims also include the limitation “wherein said opposing arm comprises a lateral extension that extends from said anterior segment.” Additionally, claims 14, 19, and 31 include “a load capable of being supported by said user.” (emphasis added).

In contrast, Sheppard ‘093 does not disclose an apparatus for distributing the weight of a load over a user or, as Examiner described it, a “load bearing system.” OA, page 3, line 5. In general, Shepard ‘093 teaches of a basketball training aid for “controlling the movement of the user’s shooting arm in a predetermined direction and predetermined elbow placement. Shepard ‘093 never teaches or suggests using its “open ‘vest-like’ light weight structure,” col. 2, lines 10-13, to support a load, but rather it teaches that the vest is a “trainer to aid a basketball player in developing a consistent basketball shot by positioning the player’s arm and constraining the arm’s movement during the shooting motion.” Col. 1, lines 7-10 (emphasis added). Assuming for the sake of argument that the “shooting arm” shown in Fig. 2 of Shepard is the load supported by the training vest, in no way does the vest hold up this “load” as recited in Applicants’ claims. The vest allows a user’s arm to swivel about a horizontal tube in a “predetermined vertical plane relative to the horizontal tube 25.” Col. 2, lines 52-55; col. 3, lines 40-46 (emphasis added). Restricting this vertical motion—in a load bearing fashion—is contrary to the purpose of Shepard ‘093. Moreover, even when a user’s arm is pointed down it is clear that the arm socket, not the vest, is supporting the “load.” In a similar way, Shepard also fails to

teach of the mere existence of "a load," as required by independent claims 14, 19, and 31. Notably, the Examiner did not address this limitation in the Office Action.

Furthermore, Shepard '093 fails to disclose a lateral extension that extends from the anterior, or front side, segment of the opposing arm. Respectfully, examiner is wrong in citing element 10 of Fig. 2 as the "lateral extension" taught by Applicants. OA, page 3, lines 6-7. Assuming for the sake of argument that "flat planar back plate 10," col. 2, line 36, is indeed a "lateral extension," this element certainly does not extend from the anterior segment of the opposing arm. If anything, the segment extends from a dorsal segment.

In light of the foregoing, Applicants respectfully submit that the cited reference does not teach every aspect of the claimed invention because claims 1, 3-5, 9, 11-21, 26 and 28-34 include the above-cited distinguishing limitations. Consequently, Applicants respectfully request the withdrawal of the Examiner's rejection under 35 U.S.C. § 102.

B. Lee

The Examiner rejected claims 1, 3-7, 9-11, 15, 16, 19-21, 27 and 28 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,963,904 to Lee (Lee). In response, Applicants provide the following remarks.

As stated above, the standard for a Section 102 rejection is set forth in M.P.E.P 706.02, which provides:

[F]or anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present.

Applicants respectfully submit that the cited reference does not teach every aspect of the previously presented claims. Independent claims 1 and 19 include the limitation

“wherein said stabilizing arm and said opposing arm further comprise specific contours comprising a dorsal segment and an anterior segment.” (emphasis added). Therefore, both arms—the stabilizing and the opposing—each have a dorsal segment and an anterior segment.

In contrast, the “stabilizing arm” and “opposing arm,” as taught by Lee and cited by Examiner, do not have the required “dorsal” and “anterior” segments. Assuming for the sake of argument that “shoulder rest 3,” as seen in Fig. 3 of Lee, has a dorsal segment that rests on a user’s back and an anterior segment that rests on a user’s front, “body rest 6” certainly does not have the requisite dorsal segment. In the same way, “camera mount 4” is also insufficient.

In light of the foregoing, Applicants respectfully submit that the cited reference does not teach every aspect of the claimed invention because claims 1, 3-7, 9-11, 15, 16, 19-21, 27 and 28 include the above-cited distinguishing limitations. Consequently, Applicants respectfully request the withdrawal of the Examiner’s rejection under 35 U.S.C. § 102.

C. Sheppard ‘705

The Examiner rejected claims 1, 3-11, 15, 19-21, 27, 28 and 32 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,746,705 to Sheppard (Sheppard ‘705). In response, Applicants provide the following remarks.

As stated above, the standard for a Section 102 rejection is set forth in M.P.E.P 706.02, which provides:

[F]or anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present.

Applicants respectfully submit that the cited reference does not teach every aspect of the previously presented claims. Independent claims 1 and 19 recite “a central rib to distribute a weight corresponding to said load over the back of a user,” claims 19 and 32 refer to a “shoulder frame assembly,” and claim 32 further recites “positioning said substantially ridged should frame assembly over said shoulders and said back of said user such that said weight of said load is substantially evenly distributed over said user.” (emphasis added).

In contrast, Sheppard ‘705 explicitly teaches positioning the “arm sling” on “the neck of a user,” see abstract; col. 1, lines 57-58; col. 4, lines 21-23, 29-30, 44; col. 5, lines 21-29 (emphasis added). Indeed, one object of the invention in Shepard ‘705 is to “provide an improved arm sling that can be used as a neck exerciser.” Col. 1, line 39; col. 5, lines 19-29, 38-39 (emphasis added). The entirety of Shepard ‘705 fails to teach or even suggest a load bearing device resting on a user’s back or shoulders. Furthermore, the importance of this distinction is illustrated well when considering Applicants’ invention in the context of supporting a golf bag, for example. If a golfer used Sheppard’s arm sling to carry their bag, the user would feel great discomfort and possibly suffer injury as a result of placing such a load on their neck, as opposed to their shoulders and/or back.

In light of the foregoing, Applicants respectfully submit that the cited reference does not teach every aspect of the claimed invention because claims 1, 3-11, 15, 19-21, 27, 28, and 32 include the above-cited distinguishing limitations. Consequently, Applicants respectfully request the withdrawal of the Examiner’s rejection under 35 U.S.C. § 102.

